THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 18081 of 2001

Oral order:

Impugning the order dated 23.08.2001, passed by respondent No.1, namely the Superintending Engineer, Operation Circle, Ongole, canceling the order dated 18.04.2001 appointing the petitioner as LDC, as illegal and arbitrary.

It is the contention of the petitioner that respondent No.1 after verifying the record and upon satisfying for himself that the petitioner worked with them and that he possesses requisite qualifications, appointed the petitioner as LDC vide order dated 18.04.2001, and as such, he now cannot contend that the petitioner has neither worked with them as casual labour nor contract labour and cancel the order of appointment, and more so without any enquiry into the particulars furnished by him in his reply to the show cause notice and by a non-speaking order.

The respondents filed counter. The learned Standing counsel for the respondents, however, admitted that no enquiry whatsoever was conducted into the particulars furnished by the petitioner in his reply to the show cause notice, and without there being any enquiry, the impugned order came to be passed.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-AP TRANSCO.

A reading of the impugned order, would disclose that the order of appointment of the petitioner came to be cancelled on the ground that the petitioner was neither found to be a ex-casual labour nor a contract labour. Except this bald ground, there is nothing in the impugned order to show that respondent No.1 has looked into or considered the materials or details furnished by the petitioner about his engagement with the respondents in his reply to the show cause notice that preceded the impugned order. It is the specific case of the petitioner that he has worked with the respondents as casual labour from 21.05.1991 to 30.06.1991 on cash book payment basis, and thereafter from 01.07.1991 till 31.08.1995 on contract

basis, and that after satisfying about these particulars, he was appointed as LDC by the respondents. When such was the case of the petitioner, if respondent No.1 felt that the petitioner has suppressed material facts or that the particulars furnished by him were false or that the certificates produced by him were not genuine, he should have conducted an enquiry to ascertain their genuineness or otherwise, but without conducting any such enquiry, respondent No.1 passed the impugned order, which cannot be sustained.

However, having regard to the facts and circumstances of the case, and having regard to the admitted stand taken by the learned Standing Counsel for the respondents that no enquiry whatsoever was conducted into the particulars furnished by the petitioner before passing the impugned order, I am of the considered opinion that the ends of justice would be met, if respondent No.1 is directed to conduct an enquiry into the factual and material particulars furnished and produced by the petitioner in support of his case.

Hence, the writ petition is disposed of with the following directions:

The order of appointment of the petitioner shall be subject to the outcome of the enquiry to be conducted by respondent No.1. Respondent No.1 shall conduct an enquiry into the factual and material particulars furnished and produced by the petitioner in support of his case that he worked with the respondents as casual/contract labour, by providing opportunity of hearing to the petitioner, and if in the enquiry, respondent No.1 comes to the conclusion that the materials produced by the petitioner are correct, then he shall continue the petitioner in service in terms of the relevant circulars, and in case he comes to the conclusion that the material produced by the petitioner is false and not genuine, then there is no need to continue the petitioner in service. Respondent No.1 shall complete the enquiry, within a period of four months from the date of receipt of a copy of this order. No costs.

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N.V. RAMANA, J.

Date: 24.02.2006

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